REMARKS

Election of Inventions

The Examiner has required an election of a single invention for prosecution on the merits. The Examiner has identified the following inventions:

Invention I: Claims 1-18 and 21-52, drawn to a stent and/or catheter for implanting the stent, classified in class 623, subclass 1.11;

Invention II: Claims 19 and 20, drawn to a process for producing a stent, classified in class 128, subclass 898.

The Examiner further indicated that if the claims of invention I are elected, further election of one of the following species was also required:

The species of figure 1;

The species of figures 2 and 3;

The species of figures 4a and 4b.

The Applicants respectfully traverse these restriction requirements.

The Examiner reasons that inventions I and II are related as a process of making and product made. The Examiner alleges that the product as claimed can be made by another and materially different process. As an example, the Examiner indicates that the product as claimed can be made by obtaining cells directly from a host body rather than being produced from cells cultivated in a shaping mold. Contrary to the Examiner's assertion, however, claim 19 does not require the cultivation of cells. Rather, claim 20, which depends from claim 19, recites the cultivation of cells. Therefore, the Applicants maintain that the Examiner has not demonstrated that the stent of claim 1 may be made by another and materially different process than that of claim 19. Withdrawal of this restriction requirement is respectfully requested.

The Applicants further traverse the Examiner's requirement of election of one of the three species mentioned above. The Examiner indicated that claim 1 is generic for all three species. However, several additional claims are generic for all three species. Specifically, claim 2, which recites a stiffness adequate to hold the vessel in the expanded state in the second condition is not dependent on any particular structures illustrated in

Figs. 1, 2, 3, 4a or 4b. Similarly, claims 3 and 21, which recite that the first wall portion comprises cartilage tissue, are not dependent on any particular structure shown in the figures. Additionally, cartilage tissue is specifically mentioned in the specification as being suitable for use in all three species. See, for example, paragraphs 57, 60, and 68. Likewise, claims 4 and 22-24, which recite a genetically modified tissue, are not dependent on any particular structure shown in the Figures. See also paragraphs 58 and 68 for specific mention of genetically modifies tissue with at least two of the identified species. Claims 5 and 25-29, which recite a hardenable tissue, are not dependent on any particular structure shown in the Figures. Claims 6 and 30-34, which recite at least portion wise provision of at least a first hardening agent component, are also not dependent on any particular structure shown in the Figures. Claims 8, 41, and 44, which recite the presence of a first component of a hardening agent in microcapsules, are not dependent on any particular structure shown in the Figures. Claim 47, which depends from claim 44 and recites that the microcapsules burst open under pressure, is also not dependent on any particular structure shown in any of the Figures. Claims 14-18 and 51-52, directed to a catheter for implanting a stent, are also not dependent the species of stent used. Therefore, claims 1-6, 8, 14-18, 21-34, 41, 44, 47, and 51-52 are generic to all three species.

Claims 7, 35-40, and 42-43 are generic for both the species of Figures 2 and 3 and the species of Figures 4a and 4b. Claims 7 and 35-40 recite a second wall portion arranged in the first wall portion at least in the second condition of the stent. Claims 42-43, which depend from these claims but do not recite any elements specific to either species (see claim 8 above), are also generic for these two species.

Only claims 9-13, 45-46, and 48-50 are directed to a single species provided by the Examiner. Claims 9-13 are directed toward the species of Figures 4a and 4b. Claims 45-46 and 48-50, which depend from claims 9-10, either directly or indirectly, are also directed toward this species.

While the Applicants traverse the restriction requirement, they recognize the requirement to elect an invention for prosecution, and elect Invention I and the claims directed toward the species of figure 1, claims 1-6, 8, 14-18, 21-34, 41, 44, 47, and 51-52.

The Applicants also reserve the right to request rejoinder of non-elected claims upon the allowance of any generic claim under 37 CFR § 1.141(a).

Respectfully submitted,

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